

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ARTHUR GUERRERO, and CYNTHIA URIBE as
Mother of CYNTHIA GUERRERO, Minor Grand
Daughter of ELOUISA GUERRERO, as Co-Special
Administrators of the Estate of ELOUISA GUERRERO,
Deceased,

Plaintiffs,

VS.

DONALD WELLS and WHITELINE EXPRESS,
LTD., a Corporation,

Defendants.

FILED: JUNE 20, 2008
08CV3542
JUDGE NORGLÉ
MAGISTRATE JUDGE BROWN
AEE

**DEFENDANTS', WHITELINE EXPRESS, LTD.
AND DONALD WELLS, NOTICE OF REMOVAL**

Defendants, WHITELINE EXPRESS, LTD. and DONALD WELLS, by their attorneys,
Patton & Ryan LLC, pursuant to 28 USC 1446(a) present this Notice of Removal based upon 28
USC 1332 and 28 USC 1441, and state as follows:

1. This cause of action was commenced on May 23, 2008, and is currently pending in the Circuit Court of Cook County, Illinois, Law Division, under Court Number 2008 L 005723. Plaintiffs' Complaint at Law is attached hereto as "Exhibit A."
2. Plaintiffs' cause is a civil action for wrongful death alleging negligence on the part of the defendants arising from a motor vehicle accident which occurred on April 25, 2008.
3. The aforementioned action is one in which the United States District Court is given original jurisdiction by reason of the complete diversity of citizenship of the parties.

4. Upon information and belief, the amount in controversy in this action, exclusive of interest and costs, exceeds \$75,000.00.

5. Upon information and belief, at the time of the filing of this cause of action and presently, plaintiffs Arthur Guerrero and Cynthia Uribe as Mother of Cynthia Guerrero are citizens of the state of Illinois.

6. At the time of the filing of the cause of action and presently, defendant, WHITELINE EXPRESS, LTD., is incorporated in the state of Delaware and has its principal place of business in the state of Michigan. Thus, pursuant to 28 USC 1332(c)(1), defendant WHITELINE EXPRESS, LTD., is deemed a citizen of the state of Delaware and of the state of Michigan.

7. At the time of the filing of the cause of action and presently, defendant, DONALD WELLS, is a citizen of the state of Michigan. *See Plaintiffs' Complaint at Law attached hereto as "Exhibit A."*

8. Defendants will promptly file a copy of this original notice with the clerk of the state court where the action has been pending.

9. All pleadings, process, orders and other filings in the state court action are attached to this notice as required by 28 USC 1446(a).

10. Venue is proper in this district under 28 USC 1446(a), because this district and division embrace the place where the removed action has been pending.

11. Defendants, WHITELINE EXPRESS, LTD. and DONALD WELLS, make a jury demand.

WHEREFORE, for the foregoing reasons, Defendants WHITELINE EXPRESS, LTD. and DONALD WELLS, respectfully petition this Court to remove the above-entitled action from

the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois, Eastern Division, based upon diversity of citizenship.

WHITELINE EXPRESS, LTD. and
DONALD WELLS

By: /s John W. Patton, Jr.
One of the attorneys for Defendants

John W. Patton, Jr.
Richard W. Schumacher
Patton & Ryan LLC
330 North Wabash Avenue, Suite 2900
Chicago, Illinois 60611
(312) 261-5160

CERTIFICATE OF SERVICE

The undersigned non-attorney certifies that he/she served the above and foregoing NOTICE OF REMOVAL on all parties of record herein by depositing true and accurate copies of the same in the United States Mail box located at 330 North Wabash Avenue, Chicago, Illinois, 60611, with proper postage pre-paid addressed to:

Daniel V. O'Connor
ANESI, OZMON, RODIN, NOVAK & KOHEN, LTD.
161 North Clark Street, 21st Floor
Chicago, Illinois 60601

on the ____ day of June, 2008, before the hour of 5:00 p.m.

s/ John W. Patton, Jr.

JUDGE NORGLÉ

MAGISTRATE JUDGE BROWN

AEE

14785/DVO/rf
5-22-08

Attorney ID#35244

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

FILED
2008 MAY 23 AM 11:33
CLERK OF CIRCUIT COURT
LAW DIVISION

ARTHUR GUERRERO, and CYNTHIA
URIBE as Mother of CYNTHIA
GUERRERO, Minor Grand Daughter of
ELOUISA GUERRERO, as Co-Special
Administrators of the Estate of ELOUISA
GUERRERO, Deceased,

Plaintiff(s),

v.

DONALD WELLS and WHITE LINE
EXPRESS, LTD., a Corporation,

Defendant(s).

Case No.

RECEIVED
CLERK OF CIRCUIT COURT
LAW DIVISION
JUL 1 2008

COMPLAINT AT LAW

Now comes the Plaintiffs, ARTHUR GUERRERO, and CYNTHIA URIBE as Mother of CYNTHIA GUERRERO, Minor Grand Daughter of ELOUISA GUERRERO, as Co-Special Administrators of the Estate of ELOUISA GUERRERO, Deceased, by their attorneys, ANESI, OZMON, RODIN, NOVAK & KOHEN, LTD., and complaining of the Defendants, DONALD WELLS and WHITE LINE EXPRESS, LTD., a Corporation, and each of them, alleges as follows:

1. That on April 25, 2008, Plaintiffs Decedent was exiting the CTA platform and descending the escalator located at or near 138 West Cermak, in the City of Chicago, County of Cook, and State of Illinois.

2. That on the aforesaid date, the Defendant, DONALD WELLS, was operating a motor vehicle in the capacity of agent, servant and/or employee of the Defendant, WHITELINE EXPRESS, LTD., a Corporation, exited the I-55/94 exit and continued northbound across four lines of traffic, first striking the CTA bus shelter, jumping the curb and continuing onto the sidewalk sticking the CTA escalator/stairs before coming to a stop, in the aforesaid City, County and State.

3. That at said time and place, a collision occurred between the vehicle the Defendant, DONALD WELLS, was operating and the person of the Plaintiff.

4. That the Defendants, and each of them, were then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Operated, maintained and controlled a tractor/trailer in a negligent manner;
- (b) Operated, maintained, controlled and drove a tractor/trailer into a collision with ELOUISA GUERRERO, a pedestrian;
- (c) Operated a tractor/trailer without keeping a proper and sufficient lookout;
- (d) Failed to give audible warning with the vehicle's horn when such warning was reasonably necessary to ensure safety in violation of 625 ILCS 5/12-601;
- (e) Failed to reduce the speed of a tractor/trailer so as to avoid a collision with ELOUISA GUERRERO in violation of 625 ILCS 5/11-601;
- (f) Failed to stop or apply the brakes of a tractor/trailer so as to avoid striking ELOUISA GUERRERO, a pedestrian in violation of 625 ILCS 5/11-601;
- (g) Operated a tractor/trailer at a speed which was greater than was reasonable and proper in violation of 625-ILCS 5/11-601;

- (h) Carelessly and negligently failed to yield the right of way to a pedestrian;
- (i) Failed to observe and obey the traffic control light in violation of 625 ILCS 5/11-904;
- (j) Failed to decrease the speed of a tractor/trailed when approaching or crossing an intersection, in violation of 625 ILCS 5/11-601;
- (k) Was otherwise careless and negligent.

5. That as a direct and proximate result of one or more of the aforesaid careless and negligent acts and/or omissions of the Defendants, and each of them, the Plaintiff's Decedent sustained severe and permanent injuries resulting in her death on April 25, 2008.

6. That on April 25, 2008, and for some time prior thereto, there was in full force and effect in the state of Illinois a certain Act, commonly known as the Wrongful Death Act, 740 ILCS 180/1-2, inclusive, which provided in pertinent part as follows:

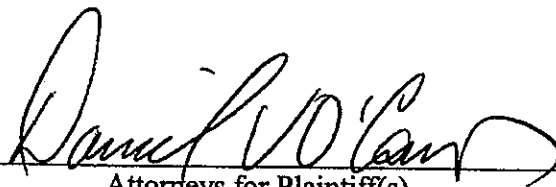
Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who or company or corporation which would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as amount in law to felon. (740 ILCS 180/1)

Every such action shall be brought by and in the names of the personal representatives of such deceased person, and, except as otherwise hereinafter provided, the amount recovered in every such action shall be for the exclusive benefit of the surviving spouse and next of kin of such deceased person. In every such action the jury may give such damages as they shall deem a fair and just compensation with reference to the pecuniary injuries resulting from such death, including damages for grief, sorrow and mental suffering, to the surviving spouse and next of kin of such deceased person. (740 ILCS 180/2)

7. That on May 23, 2008, pursuant to Order of the Circuit Court of Cook County, Illinois, ARTHUR GUERRERO, and CYNTHIA URIBE were duly appointed Co-Special Administrators of the Estate of ELOUISA GUERRERO, Deceased, for the purpose of prosecuting this action.

8. That ELOUISA GUERRERO left surviving, the following: ARTHUR GUERRERO, son and CYNTHIA GUERRERO, Minor Grand, Daughter who were dependent upon ELOUISA GUERRERO, Deceased, for their support, and as a consequence of the careless and negligent acts and/or omissions of the Defendants, and each of them, suffered injuries in their means of support.

WHEREFORE, the Plaintiff, ARTHUR GUERRERO, and CYNTHIA URIBE as Mother of CYNTHIA GUERRERO, Minor Grand Daughter of ELOUISA GUERRERO, as Co-Special Administrators of the Estate of ELOUISA GUERRERO, Deceased, demands judgment against the Defendants, DONALD WELLS and WHITELINE EXPRESS, LTD., a Corporation, and each of them, in a dollar amount to satisfy the jurisdictional limitation of this Court and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.


Attorneys for Plaintiff(s)

Daniel V. O'Connor
ANESI, OZMON, RODIN, NOVAK & KOHEN, LTD.
161 North Clark Street - 21st Floor
Chicago, IL 60601
312/372-3822

14785/DVO/rf Attorney ID#35244
5-22-08

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

ARTHUR GUERRERO, and CYNTHIA URIBE as
Mother of CYNTHIA GUERRERO, Minor Grand
Daughter of ELOUISA GUERRERO, as Co-Special
Administrators of the Estate of ELOUISA
GUERRERO, Deceased,

Plaintiff(s),

v.

DONALD WELLS and WHITBLINE EXPRESS,
LTD., a Corporation,

Defendant(s).

Case No.

AFFIDAVIT

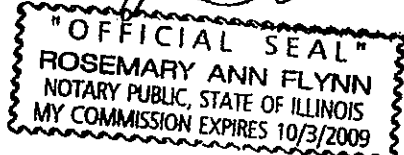
I, Daniel V. O'Connor, being first duly sworn on oath, deposes and states that if I were called upon to testify, I would do so as follows:

1. That I am an attorney at law licensed to practice in the State of Illinois.
2. That I am a Partner with the law firm of ANESI, OZMON, RODIN, NOVAK & KOHEN, LTD., attorneys of record for the Plaintiffs, Arthur Guerrero, et al.
3. That based upon the information available to me at the present time, the total amount of money damages sought in this matter exceeds \$50,000.00.
4. That this Affidavit is submitted in compliance with Supreme Court Rule 222(b).

FURTHER, Affiant sayeth not.

SUBSCRIBED AND SWORN TO
before me this 22nd day
of May 2008.

Notary Public



Daniel V. O'Connor
Daniel V. O'Connor